



More information about

The Kentucky Historic Preservation Tax Credit

On March 18, 2005, Governor Ernie Fletcher signed into law HB 272, the *JOBS for Kentucky* Tax Modernization Plan, the most extensive reform of Kentucky's tax code in more than half a century. The legislation included a state tax credit for the certified rehabilitation of certified historic structures in the Commonwealth of Kentucky.

The Kentucky Historic Preservation Tax Credit program is administered by the Kentucky Heritage Council / State Historic Preservation Office (SHPO), an agency of the Kentucky Commerce Cabinet. Established following the passage of the National Historic Preservation Act of 1966, the Kentucky Heritage Council is charged with identifying, preserving and protecting the historic resources of Kentucky. Its mission is to partner with Kentuckians to strengthen preservation networks so that our historic places are valued, protected and used to enhance the quality and economy of our communities.

To this end, the Heritage Council has successfully encouraged the adaptive reuse of historic buildings in all contexts and advocated that historic preservation should be a key public policy initiative to encourage economic development, provide affordable housing, revitalize downtowns and neighborhoods, provide life-long learning opportunities and enhance Kentucky's quality of life.

This guide to the new Kentucky Historic Preservation Tax Credit describes the program in detail, so please read it carefully. **Pages 2 and 3 contain an overview of the program in the form of Frequently Asked Questions, while more detailed instructions for applying for a tax credit may be found on pages 5 to 13.**

Before beginning any work on a potential tax credit project, please read this guide and consult with Kentucky Heritage Council staff by calling 502-564-7005 or visiting the agency's Web site at www.heritage.ky.gov. A list of key staff members is located on page 15 of this guide.

Distributed by:

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Kentucky Historic Preservation Tax Credit Frequently Asked Questions

➤ What is a tax credit?

A tax credit lowers the tax owed by an individual. A tax credit differs from a tax deduction in that an income tax deduction lowers the amount of income subject to taxation, while a tax credit is a dollar-for-dollar reduction in income tax liability. In other words, a tax credit of one dollar reduces the amount of income tax owed by one dollar.

Taxpayers are urged to seek the advice of a qualified tax professional before proceeding with any tax credit rehabilitation project.

➤ What are key points of the Kentucky Historic Preservation Tax Credit?

- 30% of qualified rehabilitation expenses is offered as a state tax credit for **owner-occupied residential properties**. A minimum investment of \$20,000 is required, with the total credit not to exceed \$60,000
- 20% of qualified rehabilitation expenses is available for **all other properties**, requiring a minimum investment of \$20,000 or the adjusted basis, whichever is greater. "Other" properties include commercial and industrial buildings, income-producing properties, historic landscapes and properties owned by governments and non-profit organizations
- Those eligible to apply for the credit include:
 - ✓ Individuals
 - ✓ Businesses
 - ✓ Non-profit organizations
 - ✓ Governments
 - ✓ A "first purchaser" of a principal residence following rehabilitation

Currently the amount of historic preservation tax credits allowed for all taxpayers for each calendar year is \$3 million. If that limit is exceeded by approved projects, an apportionment formula will be applied to determine the amount of the credit that will be awarded per project. As a result, the final credit awarded to each project may be less than the entire percentage for which the project is eligible.

➤ What buildings qualify?

Kentucky historic preservation tax credits are available for buildings listed in the National Register of Historic Places or located within a historic district listed in the National Register and certified by the Kentucky Heritage Council as contributing to the historic significance of the National Register district.

➤ What is the National Register of Historic Places?

Administered by the National Park Service, an agency of the U.S. Department of the Interior, the National Register of Historic Places officially recognizes a property's archeological, architectural or historical significance and provides a measure of protection against adverse impacts from federally funded projects. National Register listing can be applied to buildings, objects, structures, districts and archaeological resources that are significant in architecture, engineering, American history or culture, and that possess special roles in the development of our country. The status does not affect property ownership rights

For more information about the National Register in Kentucky, see page 4 of this guide or www.heritage.ky.gov/national_register.htm

➤ What work qualifies for the credit?

A building must be rehabilitated according to standards set by the Secretary of the United States Department of the Interior. Compliance with the *Secretary of the Interior's Standards for Rehabilitation* must be certified by the Kentucky Heritage Council. For more information and a copy of these standards, visit <http://www.cr.nps.gov/hps/tps/tax/rhb/index.htm>

The standards are intended to provide guidance to historic building owners and building managers, preservation consultants, architects, contractors and project reviewers prior to rehabilitation. According to these standards, "rehabilitation" is "the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural and cultural values."

For example :

- Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved
- Distinctive features, finishes and

construction techniques or examples of craftsmanship that characterize a property shall be preserved

- Deteriorated features shall be repaired rather than replaced

The Kentucky Heritage Council must certify all rehabilitation project plans as well as the amount of the credit, including any amendments, before a tax credit will be approved.

➤ **How do I meet rehabilitation expenses?**

Within a consecutive 24-month period, rehabilitation expenses for owner-occupied buildings must exceed \$20,000. Rehabilitation expenses for commercial or other property must be \$20,000 or the adjusted basis of the structure, whichever is greater.

There is no allowance in Kentucky for “phased projects” longer than 24 months, so each rehabilitation project submitted for a tax credit should be self-contained within a two-year period.

➤ **How does the state tax credit differ from the federal rehabilitation credit?**

In addition to the new Kentucky Historic Preservation Tax Credit, the Kentucky Heritage Council also administers the Federal Historic Rehabilitation Tax Credit in Kentucky. This program of the National Park Service offers a federal tax credit of up to 20% for certified rehabilitation expenses for **income-producing properties listed in or eligible for** the National Register.

Owner-occupied residences are not eligible for the federal tax credit. However, federal and state rehabilitation tax credits can be used in combination for the rehabilitation of commercial or income-producing properties.

In 2004, Kentucky ranked 9th in the number of rehabilitation projects approved for the federal rehabilitation tax credit, with a total of 30, and 11th in the number of certified projects completed, a total of 21 in a tie with Vermont. For more information about the Federal Historic Rehabilitation Tax Credit, see http://www.heritage.ky.gov/tax_credit.htm

➤ **What is the process for applying for the tax credit?**

The Kentucky Heritage Council reviews all tax credit projects for eligibility and should be consulted regularly to ensure that the proper standards are followed throughout the rehabilitation process. Applying for the credit is a three-part process:

PART 1 is the preliminary application, **Evaluation of National Register Status**, to determine if the proposed property is historic and listed in the National Register or in a National Register district.

PART 2 is the **Description of Rehabilitation** application, which outlines in detail the proposed rehabilitation work.

PART 3 is the **Request for Certification of Completed Work** form, submitted once the rehabilitation work is completed.

Parts 1 and 2, the preliminary application and the description of proposed rehabilitation, may be submitted simultaneously. However, **any work done prior to certification of these applications by the Heritage Council is done at the applicant’s own risk, and may result in disqualification of the project.**

Photographic documentation of the project prior to rehabilitation and at each phase of the certification process is required.

Guidelines for the new Kentucky Historic Preservation Tax Credit are modeled on the Federal Historic Rehabilitation Tax Credit program. **If a federal tax credit is also being sought, the appropriate corresponding federal tax credit forms should be attached to the state forms.** This will avoid substantial delays in approving rehabilitation projects.

More detailed information about each part of this process is listed on pages 5 to 11 of this guide.

➤ **When can I claim the credit?**

Applications for Part 1 and Part 2 tax credit certification may be submitted at any time during the year. Part 3 – Request for Certification of Completed Work **must be submitted to the Kentucky Heritage Council no later than January 30 of the calendar year following completion of the work.** By March 31 the Heritage Council will make a determination of the amount of credit approved for each taxpayer and notify the taxpayer and the Department of Revenue of the approved credit amount.

The apportionment formula will be applied if the total amount of approved credits exceeds the \$3 million cap.

National Register of Historic Places

The first step in applying for the Kentucky Historic Preservation Tax Credit is determining whether a property is listed in the National Register of Historic Places. With more than 3,100 districts, sites and structures encompassing more than 41,000 historic features – including nearly 300 individual districts – Kentucky has the fourth highest number of National Register listings than any state.

Generally, properties eligible for listing in the National Register must be at least 50 years old and meet one of four criteria for evaluation of significance, properties:

- A. That are associated with events that have made a significant contribution to the broad patterns of our history; or
- B. That are associated with the lives of persons significant in our past; or
- C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. That have yielded, or may be likely to yield, information important in prehistory or history.

For more information, see the National Park Service (NPS) National Register Web site, www.cr.nps.gov/nr

➤ Is my property listed in the National Register?

Several resources exist to help determine a property's National Register status. Sometimes more than one source may have to be consulted, as various issues may affect the outcome. For example, if a town has renamed its streets or reassigned street address numbers since the property was first listed, or if a property lies within a National Register district, determination of an individual property's status may require further investigation.

- Search online at the NPS National Register Web site, www.cr.nps.gov/nr. At the home page, click on the "Research" button at the top, then the "NRIS Database" button on the left side, then on "Location" to specify search mode, then finally on the choice that

matches your search preference. If you search either by "State and County" or "State and City," you can ascertain whether a property has been listed individually or potentially is included in a district.

- Contact your community's local historic preservation office. Many Kentucky cities and counties have "Certified Local Government" (CLG) status with historic preservation staff, and more than 100 communities participate in the Kentucky Main Street Program. CLG and/or Main Street managers maintain lists of local historic buildings and may be able to advise you whether your building is listed. For more information about these programs, see the Kentucky Heritage Council Web site at www.heritage.ky.gov/kyheritage_mainstreet.htm.
- Contact the Kentucky Heritage Council National Register coordinator at 502-564-7005, ext. 132, or see the agency's Web site at www.heritage.ky.gov. Staff can assist you with determining a property's National Register status.

➤ What if my property isn't listed in the National Register?

Property is listed when a National Register nomination is completed and (1) meets with successful review by the Kentucky Historic Preservation Review Board, then (2) meets with successful review by the National Park Service. National Register nomination requires a comprehensive evaluation of the property under consideration, and once a nomination is submitted to the Heritage Council, listing can take from four to eight months. Property owners have the option of hiring a historic preservation consultant or completing the form themselves, however:

- Hiring an experienced consultant can be more reliable and simpler for the property owner. Costs can range from \$2,000 for nomination of a single building to more depending on the complexity of the property, such as for multiple building nominations or for properties of questionable eligibility that may require additional research. A list of qualified consultants is available from the Heritage Council or at the agency's Web site.

- Homeowners or other interested individuals who prepare the nomination form themselves should allow 60-80 hours of preparation time for an individual property; more for multiple building nominations or for properties that may require additional research.

➤ **What steps do I take to get my property listed?**

Contact the Kentucky Heritage Council National Register coordinator to discuss your options and whether to hire a consultant or prepare the nomination yourself. Should you choose to complete the nomination yourself, the National Register Coordinator can assist you:

- Determine whether the Heritage Council has a record of your property. If no information is found in the Heritage Council's National Register or survey files, you will be asked to fill out a *Kentucky Historic Resources Inventory Form*, also known as a "survey form," which asks for a basic description and visual image of the property. Survey forms help determine how a National Register nomination may be structured.
- Gather National Register nominations for similar properties, to help guide you as you structure your argument for National Register eligibility.

Discuss your approach with the Heritage Council's National Register coordinator, who can answer questions and help fine-tune drafts as you prepare to submit the nomination to the Kentucky Historic Preservation Review Board, which must approve it before it can be forwarded to the National Park Service. If National Register eligibility is not proven, either the review board or the NPS may return the nomination for revision or deny it. Once a property is accepted by the NPS and listed, the Heritage Council will notify the owner and local officials.

For more information:

Marty Perry, National Register Coordinator
 Kentucky Heritage Council
 300 Washington Street
 Frankfort, KY 40601
 502-564-7005, ext. 132
 Email: marty.perry@ky.gov
 Web site: www.kyheritage.gov
 National Register Web site: www.cr.nps.gov/nr

Instructions and Guidance for Part 1 – Evaluation of National Register Status

PART 1 is the preliminary application, **Evaluation of National Register Status**, to determine if the proposed property is historic and listed in the National Register or in a National Register district.

Information required:

- Name, description, determination of National Register eligibility, statement of significance, photographs and maps (see more details, following)

Based on information provided, the Heritage Council will certify one of three options:

- The property is listed individually in the National Register and is a "certified historic structure" for the purpose of rehabilitation
- The property contributes to the historic significance of the district listed in the National Register and is a "certified historic structure" for the purpose of rehabilitation
- The property is not a contributing building to the district listed in the National Register nor is it individually listed and is not a "certified historic structure" for the purpose of rehabilitation

➤ **What are "certified historic structures"?**

The state historic preservation tax credit applies to income-producing property including either commercial or residential rental property. Additionally, a taxpayer's personal residence can qualify for the state credit if the property is historic and if the minimum investment threshold is met.

To be eligible for the Kentucky Historic Preservation Tax Credit, a building **must** be either:

- Listed individually in the National Register of Historic Places, which generally means the property is considered a "certified historic structure"; or
- Located in a National Register district and certified by the Kentucky Heritage Council as contributing to the historic significance of that district

For properties that are listed individually in the National Register or those in a National Register district, applicants seeking a state historic preservation tax credit are first required to gain

certification of a property's status from the Council by filing Part 1 – Evaluation of National Register Status.

Local designation of an historic district or area is insufficient. The building must be in a district listed in the National Register of Historic Places. Also as a general rule, buildings that have been built within the past 50 years are not considered contributing to National Register districts.

➤ What information is required for Part 1?

For **Part 1 – Evaluation of National Register Status**, applicants are asked to provide the following documentation:

1. Name and address of property;
2. National Register listing (if known) and/or name of the historic district, including a map clearly delineating the property's location within the district;
- 3-4. Project contacts and name(s) and mailing address(es) of owner(s), including signatures;
5. Description of appearance including alterations, distinctive feature and spaces, and dates(s) of construction;
6. Statement of significance. For properties in a National Register district, the statement of significance should summarize how the property does or does not reflect the values that give the district its distinctive historical and visual character. The summary should relate to the significance of the district (including the district's period of significance) as identified in the National Register documentation, and should relate to the National Register *Standards for Evaluating Significance* (see below). It should also explain any significance attached to the property itself (i.e., unusual building techniques, important event that took place there, etc.);
7. Current photographs of the property prior to alteration, including photographs of the building and its site and landscape features, photographs showing the property along with adjacent properties and structures on the street, and photographs of interior features and spaces adequate to document significance.

Before certifying the property as a certified historic structure, the Council may request additional information in the following situations:

- Documentation, including current photographs of the property, the building and its site and landscape features prior to

alteration if any rehabilitation has been completed, ensuring that the listed property has not lost the characteristics which caused it to be nominated to the National Register originally; and

- For properties containing more than one building, documentation of all buildings within the listing and a determination by the Council utilizing the *Standards for Evaluating Significance*, of which buildings included within the listing are of historic significance to the property.

➤ What about National Register properties with multiple structures?

Properties containing more than one building – where the Council determines that the buildings have been functionally related historically to serve an overall purpose, such as a mill complex or a residence and carriage house – will be treated as a single certified historic structure, whether the property is individually listed in the National Register or is located within a National Register district.

Buildings that are functionally related historically are those that have functioned together to serve an overall purpose during the property's period of significance.

➤ How are applications processed?

The Council will promptly review Evaluation of National Register Status forms upon receipt of a complete, adequately documented application. Where adequate information is not provided, the Council will notify the applicant of additional information needed to complete the review. Failure to supply additional information may result in substantial delays or possible disapproval of the application.

If a federal tax credit is also being sought, **only the first page of the Evaluation of National Register Status needs to be completed.** Also, to avoid substantial delays in approving rehabilitation projects, the appropriate corresponding federal tax credit forms **should be attached to the state forms.**

The Council will determine whether the property for which a complete application is received meets the *Standards for Evaluating Significance*. If the property meets the *Standards for Evaluating Significance*, the Council will approve the application. If the property does not meet these standards, the application will be denied.

If the application is approved, the Council will issue a written notice to the applicant confirming that the property is individually listed in the National Register or certifying that the historic structure contributes to the significance of National Register district. If the application is disapproved, the Council will issue a written notification of denial to the applicant and state the grounds for denial.

Applicants must notify the Council of any substantial damage, alteration or changes to a property that occurs after the Council certifies the property as a certified historic structure and prior to a final certification of rehabilitation. The Council may, upon 30 days written notice to the applicant, withdraw a certification of National Register status, and the property may be removed from the National Register, in accordance with the procedures in Title 36, Part 60, of the Code of Federal Regulations.

➤ **Standards for Evaluating Significance**
Certification of National Register status will be made based on the appearance and condition of the property before rehabilitation is begun.

Properties located within a National Register district are reviewed by the Council to determine if they contribute to the historic significance of the district. In conformance with Title 36, Part 67.5 of the Code of Federal Regulations, the following standards apply when seeking to determine whether properties located within National Register districts are considered to be contributing:

1. A property contributing to the historic significance of a district is one, which by location, design, setting, materials, workmanship, feeling and association adds to the district's sense of time and place and historical development;
2. A property not contributing to the historic significance of a district is one which does not add to the district's sense of time and place and historical development; or one where the location design, setting, materials, workmanship, feeling and association have been so altered or have so deteriorated that the overall integrity of the property has been irretrievably lost; and
3. Ordinarily buildings that have been built within the past 50 years will not be considered to contribute to the significance of a district unless a strong justification concerning their historical or architectural merit is given or the historical attributes of the district are considered to be less than 50 years old.

Some properties individually listed in the National

Register or within districts listed in the National Register are resources whose concentration or continuity possesses greater historical significance than many of their individual component buildings and structures. These usually are documented as a group rather than individually. Accordingly, this type of National Register documentation is not conclusive for evaluating significance. Applicants for certifications of National Register status must supplement documentation with information of the significance of the individual component buildings and structures.

If a non-historic surface material obscures a façade, it may be necessary to remove a portion of the surface materials prior to requesting certification so that a determination of National Register status can be made. After the material has been removed, if the obscured façade has retained substantial historic integrity and the property otherwise contributes to the historic district it may be determined to be a certified historic structure.

Checklist for Part 1

- ☐ **One copy** of a completed *Part 1 – Evaluation of National Register Status* with the **owner's original signature**.
- ☐ **Map** locating the property within the boundaries of the historic district. (*Maps of historic districts are available from the Kentucky Heritage Council.*)
- ☐ One set of labeled **photographs** depicting the streetscape, all sides of the building, major interior spaces and specific character-defining features. Key photos to a **floor plan**, and if applicable, to a **site plan**.

Send to:
Kentucky Heritage Council
300 Washington Street
Frankfort, KY 40601

Instructions and Guidance for Part 2 – Description of Rehabilitation

PART 2 is the **Description of Rehabilitation** application, which outlines in detail the proposed rehabilitation work.

Information required:

- Detailed description of rehabilitation / preservation work
- List of architectural features such as windows, roof and exterior walls
- Description of work and impact on existing features
- Applicable drawings and photos

Based on information provided, the Heritage Council will certify one of three options:

- That the rehabilitation as described is consistent with the *Secretary of the Interior's Standards for Rehabilitation*. This approval is a preliminary determination. A formal certification of rehabilitation will be issued after the work is completed
- That the rehabilitation as proposed will be consistent with the *Secretary of the Interior's Standards* only if the attached conditions are met
- That the rehabilitation as proposed is not consistent with the *Secretary of the Interior's Standards*

➤ **What are rehabilitation projects?**

Rehabilitation for the purposes of Kentucky Historic Preservation Tax Credit means the process of returning a building or buildings to a state of utility, through repair or alteration, which makes possible an efficient use while preserving those portions and features of the building and its site and environment which are significant to its historic, architectural and cultural values, as certified by the Kentucky Heritage Council.

The rehabilitation must be certified, meaning it must be approved by the Council and must conform to the *Secretary of the Interior's Standards for Rehabilitation*.

The rehabilitation must be substantial, meaning that a minimum amount as set out by statute must be invested in the property during the rehabilitation.

“Substantial” means rehabilitation of a certified historic structure for which the qualified rehabilitation expenses, during a 24-month period selected by the applicant or tax-exempt entity, ending with or within the taxable year, must exceed:

- \$20,000 for an owner-occupied residential property
- For all other property, the greater of:
 - ✓ The adjusted basis of the structure; or
 - ✓ \$20,000

The adjusted basis of a building is essentially the current book value of the building. It is determined by taking the purchase price of the building and subtracting the value of the land (which does not depreciate). Any previously claimed depreciation is subtracted from this figure and the value of any previous improvements is added to the figure. A taxpayer's accountant can provide information on determining the basis of a property.

There is no allowance in Kentucky for “phased projects” exceeding a two-year period. Each 24-month project should be self-contained. Any subsequent project must be submitted as if it were a new project.

Start of rehabilitation is the date upon which the applicant applies for the building permit for work contemplated by the rehabilitation plan, or the date upon which actual work contemplated by the plan of rehabilitation begins. The completion year for the rehabilitation is the calendar year in which the last eligible rehabilitation expense is incurred or in which the certificate of occupancy (if appropriate) is issued.

➤ **What are eligible rehabilitation expenses?**

Qualified, or eligible rehabilitation expenses include only those expenses for a certified and substantial rehabilitation of a certified historic structure, incurred on or after January 1, 2005 during a 24-month period selected by the applicant or tax-exempt entity, ending with or within the completion year, and are properly chargeable to a capital account, whether or not depreciation is allowed under Section 168 of the Internal Revenue Code.

During the transition period for 2005, applicants whose start of rehabilitation began on or after January 1, 2004 may apply for certification of rehabilitation provided that the completion of the substantial rehabilitation of the certified historic structure did not take place until calendar year 2005. Qualified rehabilitation expenses upon which a credit

can be claimed essentially include all work done to structural components of the building within the footprint of the historic structure, if they are permanent.

Examples of qualified rehabilitation expenses include architectural and engineering fees, legal expenses, the cost of restoring landscaping and fencing that contributes to the historic significance of the structure, development fees and other construction-related costs if such costs are added to the basis of the property and are determined to be reasonable and related to the services performed. Expenses related to new heating, plumbing and electrical systems are eligible, as well as expenses related to updating kitchens and bathrooms, compliance with the Americans with Disabilities Act, and fire suppression systems and fire escapes.

Qualified rehabilitation expenses do not include the cost of acquisition of a certified historic structure, enlargement of or additions to an existing building, new building construction, parking lots, sidewalks or the purchase of personal property.

If expenditures only partially qualify as eligible rehabilitation expenditures because some of the expenditures are attributable to the enlargement of the building, the expenditures must be apportioned between the original portion of the building and the enlargement.

➤ **How do I get a proposed project approved?**

To initiate review of a proposed rehabilitation project, applicants must submit a **Part 2 – Description of Rehabilitation** form to the Council.

Documentation should include:

1. Name and address of the property;
2. Tax credit being sought;
3. Data on estimated costs for labor, materials, and project outcomes;
- 4-5. Name(s) and address(es) of project contact(s) and property owner(s), including signatures;
6. Detailed descriptions of all the work to be performed, including photographs adequate to document the appearance of the structure, both on the interior and exterior, and its site and environment before rehabilitation.

Attachments should include plans, specifications and surveys for the work to be performed and plans for any attached, adjacent or related new construction, where applicable.

Applicants requesting that the Council certify that a rehabilitation plan for a certified historic structure

meets the *Secretary of the Interior's Standards for Rehabilitation* must comply with the following procedures:

- Each rehabilitation project will be performed in accordance with the rehabilitation plan submitted to the Council. The plan must contain sufficient information to determine whether the rehabilitation qualifies for certification. The burden is on the applicant to supply sufficient information to the Council for a determination.
- For purposes of certification, the Council's review of a rehabilitation project will encompass all work, whether qualified or unqualified eligible expense, on the certified historic structure(s), including interior and exterior, and its site and environment, as determined by the Council, as well as related demolition, new construction or rehabilitation work that may affect the historic qualities, integrity or site, landscape features and environment of the certified historic structure.

Applicants may submit the Part 2 – Description of Rehabilitation form before, during or after completion of a rehabilitation project. However, when feasible, applicants should submit the Description of Rehabilitation prior to beginning any work. **An applicant who undertakes a rehabilitation project prior to submission of a Description of Rehabilitation form for review and certification by the Council assumes the risk that the project will not be certified.**

➤ **How are rehabilitation projects reviewed?**

The Council will promptly review Description of Rehabilitation Application forms upon receipt of complete, adequately documented application. Where adequate information is not provided, the Council will notify the applicant of the additional information needed to complete the review. Failure to supply additional information may result in substantial delays or possible disapproval of the application.

If a federal tax credit is also being sought, **only the first page of the Description of Rehabilitation form needs to be completed.** Also, to avoid substantial delays in approving rehabilitation projects, the appropriate corresponding federal tax credit forms **should be attached to the state forms.** The Council will determine whether the rehabilitation

plan for which a completed application was received meets the *Secretary of the Interior's Standards for Rehabilitation*. If the property meets the *Standards for Rehabilitation*, the Council will approve the application. If the property does not meet these standards, the application will be denied.

The Director or an authorized representative of the Council shall be permitted to conduct an inspection of the project to determine if the work meets the *Standards for Rehabilitation*.

If the application is approved, the Council will issue a written notice to the applicant approving the rehabilitation plans. If the application is disapproved, the Council will issue a written notification of denial to the taxpayer. Where appropriate, the Council may advise the applicant of revisions necessary to meet the *Standards for Rehabilitation*. The Council will not be responsible for any delays in making revisions to the rehabilitation plan.

Applicants must notify the Council of any substantial damage, alteration or changes to a property that occurs after the Council certifies the property as a certified historic structure and prior to a final certification of rehabilitation. The Council may, upon 30 days written notice to the taxpayer, withdraw a certification of National Register status, and the property may be removed from the National Register, in accordance with the procedures in Title 36, Part 60, of the Code of Federal Regulations.

Where appropriate, the Council may require the applicant to submit a copy of the Part 2 – Description of Rehabilitation form to an authorized entity of local government for review with recommendations to the Council. Local government includes cities, counties, charter counties or consolidated local governments.

➤ *Standards for Rehabilitation*

All elements of the rehabilitation project must meet the *Secretary of the Interior's Standards for Rehabilitation*. Portions of a project that are not in conformance with these standards **may not be exempted.**

The *Secretary of the Interior's Standards for Rehabilitation* is a uniform set of established standards adopted by the U.S. Secretary of the Interior for determining appropriate treatment for historic structures. Choosing the most appropriate methods, materials and treatment for historic structures requires careful decision-making to avoid loss of the property's historic features. The quality of materials, craftsmanship and related

new construction in a rehabilitation project should be commensurate with the quality of materials, craftsmanship and design of the historic structure under consideration. Certain treatments, if improperly applied, or certain materials by their physical properties, may cause or accelerate physical deterioration of historic buildings. Inappropriate rehabilitation measures include, but are not limited to, improper masonry repointing techniques, improper exterior masonry cleaning methods, improper introduction of insulation where damage to historic fabric would result, and incompatible additions and new construction. In almost all instances, these measures and treatments will result in denial of a rehabilitation plan.

Conformance to the *Standards for Rehabilitation* will be determined based on application documentation and other available information and by evaluating the property as it existed **prior to the start of rehabilitation**.

Checklist for Part 2

- ☐ **One copy** of a completed *Part 2 – Description of Rehabilitation* with the **owner's original signature**.
- ☐ One set of labeled **photographs** showing the condition of the property prior to rehabilitation. Include photographs of all areas where significant work is proposed. Key photos to a **floor plan**, and if applicable, a **site plan**.
- ☐ One set of **architectural drawings** clearly showing conditions before rehabilitation.
- ☐ One set of **architectural drawings** and specifications describing the proposed rehabilitation – noting specifically any floor plan changes and demolition.

Send to:

Kentucky Heritage Council
300 Washington Street
Frankfort, KY 40601

➤ Amendments

Once a proposed or ongoing project has been approved, **an applicant can request review and approval of any changes in the work described in the original application by filing a Certification Application Continuation/Amendment** form with the Council. Written notification must be received from the Council certifying that the revised project continues to meet the *Secretary of the Interior's Standards for Rehabilitation*.

Instructions and Guidance for Part 3 – Request for Certification of Completed Work

PART 3 is the **Request for Certification of Completed Work** form, submitted once the rehabilitation work is completed.

Information required:

- Ownership data
- List of eligible expenses
- Tax credit sought
- Summary of Investment form

Based on information provided, the Heritage Council will certify one of two options:

- That the completed rehabilitation is consistent with the *Secretary of the Interior's Standards*. Effective on the date indicated, the rehabilitation of this "Certified Historic Structure" is hereby designated a "Certified Rehabilitation." This letter of certification is to be used in conjunction with appropriate Kentucky Income Tax forms
- That the completed rehabilitation is not consistent with the *Secretary of the Interior's Standards* and this project as submitted is not eligible for a Kentucky Historic Preservation Tax Credit

➤ When is a project complete?

A project does not become a certified rehabilitation eligible for Kentucky Historic Preservation Tax Credit until the project is completed and so certified by the Council. The completion year for the rehabilitation is the calendar year in which the last eligible rehabilitation expense is incurred or in which the certificate of occupancy (if appropriate) is issued.

To request certification of a completed project, the

applicant must submit a **Part 3 – Request for Certification of Completed Work** and a **Summary of Investment** form with the Council. **To avoid substantial delays, the appropriate corresponding federal tax credit form should be attached if the federal tax credit is also being claimed.**

Documentation on the Request for Certification should include:

1. Name and address of property;
2. Project data including start and end date and credit sought;
3. Name(s) and mailing address(es) of owner(s) including signatures;
4. Photographs of the property showing the completed rehabilitation work, including exterior and interior features and spaces, sufficient to demonstrate that the completed work is consistent with the *Standards for Rehabilitation* and is consistent with the work described in the Description of Rehabilitation application form;
5. Project expenses and final cost of the rehabilitation work.

The Council will determine whether the Request for Certification of Completed Work complies with approved work as certified in Part 2 – Description of Rehabilitation. If the rehabilitation is complete as certified in Part 2 and meets the *Standards for Rehabilitation*, the Council will approve the application. If the property does not meet these standards, the application will be denied.

If the application is approved, the Council will issue a written notice to the applicant approving the completed project. If the application is disapproved, the Council will issue a written notification of denial to the taxpayer. Where appropriate, the Council may advise the applicant of revisions necessary to meet the *Standards for Rehabilitation*. The Council will not be responsible for any delays in making revisions to the rehabilitation plan.

➤ Summary of Investment

The **Summary of Investment** form must be signed by the owner. This form must be notarized if the project is an owner-occupied residence. For all other properties, the form must be certified by a certified public accountant (CPA).

Checklist for Part 3

☐ One copy of a completed Part 3: *Request for Certification of Completed Work*, with the owner's original signature.

☐ One set of labeled **photographs** showing the condition of the property after rehabilitation, including all exterior elevations, significant interior spaces, major alterations and new construction. These should be taken of the same features and from the same locations as photographs presented with Part 2. Key photos to a **floor plan**, and if applicable, a **site plan**.

☐ One copy of a completed *Summary of Investment Form*. This form must be notarized if the project is an owner-occupied residence. For all other properties, the form must be certified by a certified public accountant (CPA).

☐ A complete **listing of owners**, partners and/or shareholders must be attached for buildings with more than one owner.

Send to:
Kentucky Heritage Council
300 Washington Street
Frankfort, KY 40601

Claiming a Tax Credit

The deadline for a taxpayer to submit complete and adequately documented historic preservation tax credit forms with the Council is thirty (30) days following the close of the calendar year. For example, if a rehabilitation project was completed on June 1, 2006, all forms must be submitted to the Council on or before January 30, 2007.

Return of any historic preservation tax credit form to the applicant for insufficient information or failure to meet the *Standards for Rehabilitation* will not extend the deadline. The Council will not be responsible for any delays in making revisions to the applications or the rehabilitation plan.

Taxpayers are cautioned that if the Evaluation of National Register Status and Description of Rehabilitation application forms are not submitted prior to beginning work on the rehabilitation, they

proceed with the project at the risk that the rehabilitation project will not be certified.

Return of any historic preservation tax credit form to the applicant for reasons that the property was not listed individually in the National Register of Historic Places or was not located within a historic district listed in the National Register of Historic Places will not extend the deadline. The Council will not be responsible for any delays that may arise in an attempt to list the property in the National Register of Historic Places.

Taxpayers are cautioned that the process of listing property in the National Register of Historic Places can be time-consuming and must be performed in conformance with very strict federal rules and regulations.

➤ How is the credit awarded?

Between January 30 and March 31 of the calendar year following completion of the work, the Kentucky Heritage Council will review all final requests for Certification of Completed Work and any supporting documentation. On or before March 31 of the calendar year following completion of the work, the Council will determine the amount of credit approved for each taxpayer and notify the taxpayer and the Department of Revenue of the approved credit amount.

A copy of the *Request for Certification of Completed Work* signed by the Director and remitted to the taxpayer will serve as the taxpayer's notification as to the total amount of eligible expenses reported and the total approved credit amount.

Currently the amount of historic preservation tax credits allowed for all taxpayers for each calendar year is \$3 million. If that limit is exceeded by approved projects, an apportionment formula will be applied to determine the amount of the credit that will be awarded per project. As a result, the final credit awarded to each project may be less than the entire percentage for which the project is eligible.

There is no recapture provision for the state historic preservation tax credit if the taxpayer disposes of the taxpayer's interest in the property after a credit is awarded.

➤ Amount of the credit

A state tax credit in an amount equal to 30% of the qualified rehabilitation expenses is allowed for owner-occupied residential property. The maximum credit that may be claimed for owner-occupied

residential property is \$60,000, subject to the state certified rehabilitation credit cap. The credit must be claimed for the taxable year in which the certified rehabilitation is completed. For a husband and wife filing separate returns or filing separately on joint returns, the credit may be taken by either or divided equally, but the combined credit cannot exceed \$60,000 subject to the certified rehabilitation credit cap.

A state tax credit in an amount equal to 20% of the qualified rehabilitation expenses is allowed for all property other than owner-occupied residential property. For property not deemed to be owner-occupied residential property, there is no maximum credit that may be claimed; however, the credit is subject to the state certified rehabilitation credit cap. The state historic preservation tax credit amount approved for a calendar year for all taxpayers is limited to the certified rehabilitation credit cap. That cap is currently \$3 million. When the total credit amount approved exceeds the certified rehabilitation credit cap, the following formula will apply for determining the maximum individual state historic preservation tax credit allowable: **\$3,000,000 x (approved tax credit for individual taxpayer ÷ total approved credits for all taxpayers)**

➤ Who can claim a credit?

It is recommended that the advice of a qualified tax professional be sought before proceeding with any tax credit project.

For purposes of the Kentucky Historic Preservation Tax Credit, “taxpayer” is defined as any individual, corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted.

Preservation tax credits can be transferred or assigned to financial institutions that are subject to annual state franchise tax under KRS 136.505, for some or no consideration, along with any related benefits, rights, responsibilities and liabilities. Within thirty (30) days of the date of any transfer of credits to the financial institution subject to KRS 136.505, the party transferring the credits must provide the Department of Revenue with the following information:

- The name, address, employer identification number, and bank routing and transfer number, of the party to which the credits are to be transferred;

- The amount of credits transferred; and
- Any additional information that the Department deems necessary

These provisions also apply to any credits that pass through to a successor or beneficiary of a taxpayer.

For purpose of the state historic preservation tax credit, a lessee of a certified historic structure shall be treated as the owner of the structure if the remaining lease period is at least 27.5 years for residential property and 39 years for all other property.

A tax exempt entity for purposes of the state historic preservation tax credit is any tax exempt organization pursuant to Section 501 (c) (3) of the Internal Revenue Code, any political subdivision of the Commonwealth, and state or local agency, board or commission or any quasi-governmental entity. In the event that an exempt entity has incurred qualified rehabilitation expenses, the credit may be available for transfer or assignment as set forth in the Act.

If the taxpayer is a pass-through entity not subject to the corporate income tax imposed by KRS 141.040, the credit shall pass through in the same proportion as the distributive share of income or loss is passed through.

The purchaser of a certified historic structure that has been substantially rehabilitated by a previous owner may be able to claim a credit if:

- The purchaser is the first purchaser of the structure after the date of completion of substantial rehabilitation; and
- The structure or a portion thereof will be the principal residence of the taxpayer; and
- No credit was allowed the seller under the Act.

➤ Can the credits be carried over?

If the credit amount that may be claimed in any tax year exceeds the taxpayer’s total tax liabilities, the taxpayer may carry the excess tax credit forward until the tax credit is used. However, any tax credit not used within seven (7) years of the taxable year the certified rehabilitation was complete will be lost.

➤ Is there an application fee?

Projects submitted during the initial transition period prior to January 2006 will not be assessed a processing fee. However, fees may be considered in future calendar years.

Disqualifications

Work that is performed within three (3) years of the completion of the certified rehabilitation is considered disqualifying work if, performed as part of the rehabilitation certified under this section, the work would have made the rehabilitation ineligible for certification.

The Council shall be permitted to conduct an inspection of the project at any time beginning from the start of rehabilitation up to three years after completion of the rehabilitation to determine if the work meets the *Secretary of the Interior's Standards*.

If the Council determines that the rehabilitation project was not undertaken as represented by the owner in his or her application and supporting documentation, or the owner upon obtaining certification undertook disqualifying work, the Council may revoke a certification, after giving the owner thirty (30) days to comment on the matter.

If the Council determines to revoke certification after taking into consideration the owner's comments, the Council will notify the Kentucky Department of Revenue, which will assess a penalty on any taxpayer or exempt entity who performs disqualifying work in an amount equal to one hundred percent (100%) of the tax credit allowed on the rehabilitation.

Definitions

"Act" means Section 151 of 2005 Ky. Acts, Chapter 168.

"Adjusted basis" is the cost of the property (excluding land) plus or minus adjustments, including but not limited to capital improvements.

"Certified historic structure" is a structure that is located within the Commonwealth of Kentucky and is either listed individually on the National Register of Historic Places or is located in a historic district listed on the National Register of Historic Places and is certified by the Kentucky Heritage Council as contributing to the historic significance of the district.

"Certified rehabilitation" is defined as a completed substantial rehabilitation of a certified historic structure that the Kentucky Heritage Council certifies as meeting the United States *Secretary of the Interior's Standards for Rehabilitation*.

"Certified rehabilitation credit cap" means \$3 million (\$3,000,000).

"Code" means Title 36, part 67, United States Code of Federal Regulations.

"Completion year" means the calendar year in which the last eligible rehabilitation expense is incurred or when the certificate of occupancy (if appropriate) is issued.

"Council" means the Kentucky Heritage Council / State Historic Preservation Office.

"Department" mean the Kentucky Department of Revenue.

"Director" means the Executive Director of the Kentucky Heritage Council.

"Disqualifying work" is any work that is performed within three (3) years of the completion of the certified rehabilitation, that if performed as a part of the rehabilitation certified under this section, would have made the rehabilitation ineligible for certification.

"Exempt entity" means any tax-exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code, any political subdivision of the Commonwealth, any state or local agency, board or commission, or any quasi-governmental entity.

"Inspection" means a visit by the Director or an authorized representative of the Council to a property for the purposes of reviewing and evaluating the significance of the structure and the ongoing or completed rehabilitation work.

"Local government" means a city, county, urban-county, charter county, or consolidated local government.

"National Register of Historic Places" means the National Register of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture that the United States Secretary of the Interior is authorized to expand and maintain pursuant to Section 101(a)(1) of the National Historic Preservation Act of 1966, as amended, and implemented through Title 36, Part 60, Code of Federal Regulations, et seq.

"Owner-occupied residential property" means a building or portion thereof, condominium, or cooperative occupied by the owner as his principal residence.

“Owner” means the person, partnership, corporation, public agency, or other entity holding a fee simple interest in a property, or any other person or entity recognized by the Department for purposes of the applicable tax benefit under the Act.

“Property” means a building and its site and landscape features.

“Qualified purchased historic home” means any substantially rehabilitated certified historic structure if:

(a) The taxpayer claiming the credit authorized under the Act is the first purchaser of the structure after the date of completion of substantial rehabilitation; and (b) The structure or a portion thereof will be the principal residence of the taxpayer; and (c) No credit was allowed the seller under the Act. A qualified purchased historic home is deemed to be an owner-occupied residential property.

“Qualified rehabilitation expense” means any amount that is properly chargeable to a capital account, whether or not depreciation is allowed under Section 168 of the Internal Revenue Code, and is expended in connection with the certified substantial rehabilitation of a certified historic structure. It does include the cost of restoring landscaping and fencing that contributes to the historic significance of this structure. It does not include the cost of acquisition of a certified historic structure, enlargement of or additions to an existing building, or the purchase of personal property.

“Rehabilitation” means the process of returning a building or buildings to a state of utility, through repair or alteration, which makes possible an efficient use while preserving those portions and features of the building and its site and environment which are significant to its historic, architectural, and cultural values as determined by the Director.

“Rehabilitation plan” means a plan pursuant to which a certified historic structure will be substantially rehabilitated.

“Standards for Rehabilitation” mean the *Secretary of the Interior’s Standards for Rehabilitation*, Title 36, Part 67.7, and 67.6(b)(1)-(7) of the Code of Federal Regulations, as amended. In those standards, any reference to the Internal Revenue Code shall mean the Kentucky Revised Statutes, the Internal Revenue Service shall mean the Kentucky Department of Revenue, and the Secretary shall mean the Director.

“Start of rehabilitation” means the date upon which

the taxpayer applies for the building permit for work contemplated by the rehabilitation plan, or the date upon which actual work contemplated by the plan of rehabilitation begins.

“Substantial rehabilitation” means rehabilitation of a certified historic structure for which the qualified rehabilitation expenses, during a 24-month period selected by the taxpayer or exempt entity, ending with or within the taxable year, exceed \$20,000 for an owner-occupied residential property; or for all other property, the greater of: the adjusted basis of the structure; or \$20,000.

“Taxpayer” means any individual, corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted.

Contacts

For additional information and assistance with historic preservation and rehabilitation tax credit projects, contact the following Kentucky Heritage Council staff members:

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Restoration Project Manager / Tax Credit
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(502) 564-7005, ext. 141
scot.walters@ky.gov

Marty Perry
National Register Coordinator
(502) 564-7005, ext. 132
marty.perry@ky.gov

Becky Shipp
Site Development Program Manager
(502) 564-7005, ext. 133
becky.shipp@ky.gov

Peggy Guier
Staff Attorney / Community Preservation
Coordinator
(502) 564-7005, ext. 129
peggy.guier@ky.gov

Internet Resources

Kentucky Heritage Council
www.heritage.ky.gov

Preservation Kentucky, Inc.
www.preservationkentucky.org

Kentucky Department of Revenue
www.revenue.ky.gov

Illustrated *Secretary of the Interior's Standards
for Rehabilitation*
www.cr.nps.gov/hps/tps/tax/rhb/index.htm

Electronic tutorial for *Secretary of the Interior's
Standards*
www.cr.nps.gov/hps/e-rehab

National Register of Historic Places
www.cr.nps.gov/places.htm

Federal Historic Preservation Tax Incentives
www.cr.nps.gov/hps/tps/tax/index.htm

Federal Preservation Laws, Regulations and
Standards
www.cr.nps.gov/hps/laws/laws.htm

Kentucky Legislative Resources
lrc.ky.gov/legresou/legres2.htm

National Park Service / Technical Preservation
Services
The Good Guides
www.cr.nps.gov/hps/tps/care

National Park Service / Technical Preservation
Services
Preservation Briefs
www.cr.nps.gov/hps/tps/briefs/presbhom.htm

